

Service Date: December 19, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF CUT BANK GAS)	UTILITY DIVISION
COMPANY, Application for General Rate)	
Increase)	DOCKET NO. D2006.2.15
)	ORDER NO. 6720d

IN THE MATTER OF CUT BANK GAS)	UTILITY DIVISION
COMPANY, Application for Protective Order)	
to Govern Certain Annual Report Information)	DOCKET NO. N2006.10.157
)	ORDER NO. 6793

PROTECTIVE ORDER

On October 26, 2006, Cut Bank Gas Company (CBG) filed before the Public Service Commission (PSC) two motions for protective orders to govern certain information expected to be filed in quarterly-reports required by the PSC (PSC Docket No. D2006.2.15) and required by the PSC in annual reports (PSC Docket No. N2006.10.157). CBG's motions are proper in form and include the elements required in a motion for protective order before the PSC.

CBG states that it has done a thorough legal and factual examination and has determined the specific items or categories of like items identified are legally protectible. *ARM 38.2.5007(2)*. CBG states that it has considered that the PSC is a public agency and that there is a presumption of access to documents and information in the PSC's possession. *ARM 38.2.5007(4) (b) (i)*. CBG states that it understands it has the burden of demonstrating that the identified items are confidential information and that it must, within its motion, establish a prima facie showing of confidentiality, factually and legally, and makes clear the basis for the claim of confidentiality. *ARM 38.2.5007(3)*. CBG names a contact person regarding the motion and regarding the items to be protected. *ARM 38.2.5007(3) (a)*. CBG has included a complete and specific non-confidential identification of the items or categories of items for which it seeks protection. *ARM 38.2.5007(3) (b)*. For each item or category of like items CBG has supplied what it believes is a

complete and specific factual basis, including thorough identification and explanation of specific facts, and a complete and specific legal basis and application of the law to facts. *ARM 38.2.5007(3) (c)*. CBG states it has explained, in detail, for each item or category of like items, including thorough facts and legal analysis as it relates in general and in specific, proper application of the element of trade secret. *ARM 38.2.5007(3) (d)*. CBG's motions have been noticed in accordance with *ARM 38.2.5007(8)*.

CBG requests protection of compensation, wages, salaries, fees, and benefits paid to CBG employees, management, and directors. The PSC customarily protects this type of information as private and protected by the right of privacy. *See Art. II, § 10, Montana Constitution*. The PSC determines that CBG has shown good and sufficient cause in fact and law that the information for which protection is requested is entitled to protection from uncontrolled disclosure.

Pursuant to PSC rule *ARM 38.2.5007(4)(a)* the elements of individual privacy are: (a) the provider has made a reasonable effort to contact the individual to ascertain whether the individual waives the right to privacy for the information at issue; (b) the individual with a potential privacy interest has an actual, subjective expectation of privacy in the information at issue; (c) society recognizes such expectation of privacy as reasonable; and (d) the demand of individual privacy clearly exceeds the merits of public disclosure. CBG is asserting privacy for its employees, managers, and directors. Individual privacy can be asserted by an entity for an individual. *See, e.g., Belt v. Bennett, 227 Mont. 341, 345 (1987)*.

The PSC grants CBG's motions. This order is prospective. It applies to the protected information in all quarterly reports required in PSC Docket No. D2006.2.15. It applies to the protected information in CBG's next-filed annual report. CBG might consider a motion for a term protective order regarding annual reports, which can be effective for up to four years and for that period, eliminates the need to file motions prior to each annual report. *See ARM 38.25004*. Special terms and conditions requested by CBG, if any, are denied.

Done and dated this 14th day of November, 2006, by a vote of 4-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice-Chairman
(voting to dissent)

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No. D2006.2.15, Order No. 6720d
Docket No. N2006.10.157, Order No. 6793
Order Action Date: November 14, 2006

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

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Employer

Party Represented